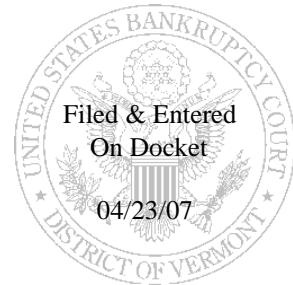


UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re:

DAWN DENNIS,
Debtor.

Chapter 7 Case
07-10240



**ORDER
DISMISSING CASE
AS VOID *AB INITIO***

On Friday afternoon, April 20, 2007, at 4:17 p.m., counsel for the above-referenced debtor (“Counsel”) filed a chapter 7 petition through the electronic case filing system (“CM-ECF”). On Monday morning, April 23, 2007, the Bankruptcy Court Clerk’s Office notified Counsel that when it attempted to charge the credit card designated for payment of the filing fee, as well as Counsel’s two “back-up” credit cards on file, the charge was declined. In response to that notification and inquiry, Counsel indicated to the Clerk’s Office that it may not be in a position to pay the filing fee until on or after Tuesday, April 24, 2007.

Federal Rule of Bankruptcy Procedure 1006(a) provides that “[e]very petition shall be accompanied by the filing fee. . .” The only exceptions to this rule are if an order has been entered granting a fee waiver or authorizing the debtor to pay the filing fee in installments; no such order has been granted here.

THEREFORE, THE COURT FINDS that this petition should be handled just as it would have been handled prior to the availability of case filing using CM/ECF. Although there is no mechanism for refusing the filing of a petition when it is filed using CM/ECF, that does not relieve the Court from its duty to require compliance with Rule 1006(a). Prior to electronic filing, any petition delivered to the Clerk without a filing fee was refused or returned, under Rule 1006(a).

THE COURT FURTHER FINDS that dismissal of the case as void *ab initio* is warranted under the facts of this case, where the debtor has had the benefit of the automatic stay for two full business days, and has not paid the filing fee, or otherwise satisfied Rule 1006. In sum, this form of dismissal is warranted to prevent the injustice that would result if a debtor were allowed to enjoy the protections of title 11 without satisfying the fee requirement.

THEREFORE, IT IS HEREBY ORDERED that this case is dismissed as void *ab initio* based upon the debtor’s failure to pay the filing fee or otherwise comply with Rule 1006.



Colleen A. Brown
United States Bankruptcy Judge

April 23, 2007
Rutland, Vermont